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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,763

04/14/2004

Keith P. Vogel

10-1473

4722

23117

7590

08/01/2007

NIXON & VANDERHYE, PC

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EXAMINER

HALPERN, MARK

ART UNIT

PAPER NUMBER

1731

MAIL DATE

DELIVERY MODE

08/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/823,763	<b>Applicant(s)</b> VOGEL ET AL.	
	<b>Examiner</b> Mark Halpern	<b>Art Unit</b> 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/23/07</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

- 1) Acknowledgement is made of Amendment received 7/23/2007.

Claims 1, 8 are amended. Claims 11-18 remain withdrawn.

#### ***Information Disclosure Statement***

- 2) The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Prior art references recited in Specification paragraphs [0010] and [0023] are not recited on form PTO-1449.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 3) Claims 1-10, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sneekenes (6,086,717).

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Claims 1-3, 6-8: Snekkenes discloses a top separator in a digester for making pulp. As shown in Figure 2, the top separator is of structure claimed and includes a supply line 21 turning **upward** bringing impregnated chips into the bottom portion of the separator. On the same horizontal broken center line, without a numerical designation, is a supply line entering from the right side of the vessel and turning **downward** for discharging chips directly into the vessel. There are thus two chip inlet conduits into the vessel, instead of one, however, it would have been obvious to one skilled in the art at the time the invention was made to replace the two inlet conduits of Snekkenes, one turning upward and the other turning downward, because the two inlets perform the same function as that of the claimed one chip inlet conduit. Further, the present specification does not recite any advantages of having one chip inlet conduit over the two conduits of the cited prior art (col. 3, line 29 to col. 8, line 32, and Figures 1-2). Operation modes are method and not structural limitations. The flange coupling in the inlet conduit performs the same function as that of two inlet conduits.

Claim 4-5: the screen and conveyor are disclosed.

Claims 9-10: liquid level fill is an operational and not a structural aspect.

### ***Response to Amendment***

- 4) Applicants' arguments filed 7/23/2007, have been fully considered but they are not persuasive.

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Applicants allege that the cited prior art, Snekkenes, does not disclose a single inlet pipe extending through the vessel where the inlet pipe serves both chips flowing upward to a top separator and chips flowing downward directly into the vessel.

Snekkenes discloses a supply line 21 turning **upward** bringing impregnated chips into the bottom portion of the separator. On the same horizontal broken center line, without a numerical designation, is shown a supply line entering from the right side of the vessel and turning **downward** for discharging chips directly into the vessel. There are thus two chip inlet conduits into the vessel, instead of one, however, it would have been obvious to one skilled in the art at the time the invention was made to replace the two inlet conduits of Snekkenes, one turning upward and the other turning downward, because the two inlets perform the same function as that of the claimed one chip inlet conduit. Further, the present specification does not recite any advantages of having one chip inlet conduit over the two conduits of the cited prior art.

### ***Conclusion***

5) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone no. is 571-272-1190.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Mark Halpern/  
Primary Examiner  
Art Unit 1731